

**TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE**



**CORRECTED
FISCAL NOTE**

SB 26 – HB 200

March 29, 2011

SUMMARY OF BILL: Elevates assault to aggravated assault, punishable by a mandatory minimum two-year sentence, committed by an inmate against a state or local correctional officer or jailer that results in sutures, a medical procedure such as a CT scan or MRI, or loss of work for at least one day. Prohibits enhancement of the convicted inmate's sentence under Tenn. Code Ann. § 40-35-114(19).

ESTIMATED FISCAL IMPACT:

On March 7, 2011, a fiscal note was issued estimating a fiscal impact as follows:

Decrease State Revenue – Not Significant

*Increase State Expenditures - \$4,605,400/Incarceration**

Decrease Local Revenue – Not Significant

Decrease Local Expenditures – Not Significant

The original estimate did not take into account recidivism for the felony offenders. Based upon additional information provided by the Department of Correction, the estimated impact is:

(CORRECTED)

Decrease State Revenue – Not Significant

Increase State Expenditures - \$3,498,300/Incarceration*

Decrease Local Revenue – Not Significant

Decrease Local Expenditures – Not Significant

Assumptions:

- Simple assault is currently punishable as a Class A or Class B misdemeanor. Aggravated assault is currently punishable as a Class C or Class D felony. Under existing law, an assault on a correctional officer or jail constitutes aggravated assault if the assault causes serious bodily injury or a deadly weapon is used or displayed.

- According to the Department of Correction (DOC), there has been an average of 69 staff assaults resulting in injury in each of the past three years. DOC assumes 15 percent of those (10) would currently be charged with a Class D felony. The remaining 59 would receive a mandatory minimum two-year sentence as a result of this bill.
- According to the U.S. Census Bureau, population growth in Tennessee has been 1.12 percent per year for the past 10 years, yielding a projected compound population growth of 11.78 percent over the next 10 years. Population growth will result in seven additional offenders in the tenth year.
- According to the Department, 39.6 percent of offenders will re-offend within two years of their release. A recidivism discount of 39.6 percent has been applied to this estimate to account for the impact of offenders who would re-offend under current law within the additional time added by this bill. It is assumed that the re-offender would have committed the subsequent offense at the same felony level as under current law (66 offenders x 39.6% recidivism discount = 26 offenders). Forty (66 – 26) offenders will serve a mandatory two-year sentence.
- According to data published by the Tennessee Bureau of Investigation, there has been an average of 678 aggravated assaults per year for the past three years on law enforcement officers. DOC estimates five percent (34) would serve a mandatory minimum two-year sentence for aggravated assault against a local correctional officer or jailer as a result of this bill. Population growth will result in an additional four offenders. Thirty-nine offenders will receive a Class D felony rather than a misdemeanor.
- The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on 79 offenders serving a mandatory minimum sentence. According to DOC, the average operating cost per offender per day for calendar year 2011 is \$60.62. The cost for a mandatory two-year sentence is \$44,282.91 (\$60.62 x 730.50 days). The total additional operating cost for 79 offenders is \$3,498,349.89 (\$44,282.91 x 79)
- State and local government will have a decrease in expenditures and revenue associated with misdemeanor offenses that will be elevated to felony offenses under this bill. This decrease will not have a significant fiscal impact.

**Tennessee Code Annotated, Section 9-4-210, requires that: For any law enacted after July 1, 1986, which results in a net increase in periods of imprisonment in state facilities, there shall be appropriated from recurring revenues the estimated operating cost of such law. The amount appropriated from recurring revenues shall be based upon the highest cost of the next 10 years.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



James W. White, Executive Director

/lsc